

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6
7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JAMES HEALY, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

MILLIMAN, INC., d/b/a INTELLISCIPT,

Defendant.

Case No. 2:20-cv-01473-JCC

**STIPULATED MOTION TO EXTEND
DEADLINE TO SEND CLASS NOTICE SO
THAT THE PARTIES CAN CONDUCT
MEDIATION**

**NOTED FOR CONSIDERATION:
DECEMBER 8, 2022**

WITHOUT ORAL ARGUMENT

Plaintiff James Healy and Defendant Milliman, Inc. jointly move this Court for entry of an order granting an approximately two-month extension of the deadlines for the administrator to send class notice, for class members to opt out of the classes, and for Plaintiff to submit a list of opt outs to the Court. The parties seek this extension to provide time to resolve the matter through private mediation. In support of this request, the parties state as follows:

1. This is a certified class action. See Dkt. No. 126 (Order Granting in Part and Denying in Part Plaintiff's Motion for Class Certification).

2. After the classes were certified and discretionary review denied, the parties have worked cooperatively to assemble the list of individuals to whom notice of the class action will be sent and to prepare the notices. Defendant produced the data necessary to assemble the

27 **STIPULATED MOTION TO EXTEND DEADLINE TO
SEND CLASS NOTICE SO THAT THE PARTIES CAN
CONDUCT MEDIATION- 1**

Case No. 2:20-cv-01473-JCC

1 class list, Plaintiff's expert has analyzed it, the notice administrator has performed reverse
 2 lookups to obtain email addresses for each class member, and—with the help of the notice
 3 administrator—the parties have agreed on final forms of notice.

4 3. The parties have agreed that now is a good juncture to try to resolve this matter
 5 through private mediation and good cause exists to extend the deadlines. Resolving the case
 6 now would save substantial time and money as the parties could send notice of the class action
 7 to the over 400,000 class members one time. Without a settlement, notice would need to be
 8 sent twice—now and after the case resolves. See Fed. R. Civ. P. 23(e)(4) (“If the class action was
 9 previously certified under Rule 23(b)(3), the court may refuse to approve a settlement unless it
 10 affords a new opportunity to request exclusion to individual class members who had an earlier
 11 opportunity to request exclusion but did not do so.”).

12 4. Plaintiff has reached out to potential mediators to obtain their availability for a
 13 mediation in January or very early February and are waiting to hear back. The parties agree to
 14 work expeditiously and in good faith to identify a mediator and schedule the mediation.

15 5. The parties are agreeable to exchanging information about the case and its value
 16 before the mediation.

17 6. The parties agree that any extension of time to conduct mediation must not
 18 result in a continuance of the trial currently scheduled for October 16, 2023 at 9:30 a.m.

19 7. Accordingly, the parties respectfully request that the Court enter the following
 20 case schedule. All other deadlines would not change:

Event	Current Deadline	Proposed Deadline
Deadline to complete mediation		February 7, 2023
Deadline for the parties to submit a joint status report informing the court of the		February 10, 2023

27 STIPULATED MOTION TO EXTEND DEADLINE TO
 SEND CLASS NOTICE SO THAT THE PARTIES CAN
 CONDUCT MEDIATION- 2
 Case No. 2:20-cv-01473-JCC

1 outcome of mediation		
2 Administrator sends notice after performing reverse lookups for email addresses and performing an NCOA update	December 9, 2022	February 14, 2023
5 Deadline to opt out of class	January 24, 2023	March 20, 2023
6 Deadline to file list of opt outs with Court	February 7, 2023	March 24, 2023
7 Deadline to complete fact discovery	March 9, 2023	March 24, 2023

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
RESPECTFULLY SUBMITTED AND DATED this 9th day of December, 2022.

TERRELL MARSHALL LAW GROUP PLLC

WILLIAMS, KASTNER & GIBBS PLLC

By: /s/ Jennifer Rust Murray, WSBA #36983

Beth E. Terrell, WSBA #26759
Email: bterrell@terrellmarshall.com
Jennifer Rust Murray, WSBA #36983
Email: jmurray@terrellmarshall.com
Adrienne D. McEntee, WSBA # 34061
Email: amcentee@terrellmarshall.com
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
Telephone: (206) 816-6603
Facsimile: (206) 319-5450

By: /s/ Jeffery M. Wells, WSBA #45840

Rodney L. Umberger, WSBA #24948
Email: rumberger@williamskastner.com
Daniel Brown, WSBA #22028
Email: dbrown@williamskastner.com
Jeffery M. Wells, WSBA #45840
Email: jwells@williamskastner.com
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
Telephone: (206) 628-6600
Facsimile: (206) 628-6611

23
24
25
26
27
Attorneys for Defendant

STIPULATED MOTION TO EXTEND DEADLINE TO
SEND CLASS NOTICE SO THAT THE PARTIES CAN
CONDUCT MEDIATION- 3
Case No. 2:20-cv-01473-JCC

TERRELL MARSHALL LAW GROUP PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
TEL. 206.816.6603 • FAX 206.319.5450
www.terrellmarshall.com

1 James A. Francis, *Admitted Pro Hac Vice*
2 Email: jfrancis@consumerlawfirm.com
3 John Soumilas, *Admitted Pro Hac Vice*
4 Email: jsoumilas@consumerlawfirm.com
5 Lauren KW Brennan, *Admitted Pro Hac Vice*
6 Email: lbrennan@consumerlawfirm.com
7 FRANCIS MAILMAN SOUMILAS, P.C.
8 1600 Market Street, Suite 2510
9 Philadelphia, Pennsylvania 19103
10 Telephone: (215) 735-8600
11 Facsimile: (215) 940-8000
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Attorneys for Plaintiff

STIPULATED MOTION TO EXTEND DEADLINE TO
SEND CLASS NOTICE SO THAT THE PARTIES CAN
CONDUCT MEDIATION- 4
Case No. 2:20-cv-01473-JCC

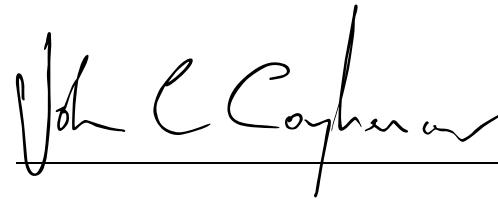
TERRELL MARSHALL LAW GROUP PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
TEL. 206.816.6603 • FAX 206.319.5450
www.terrellmarshall.com

1 [PROPOSED] ORDER
2
3

4 IT IS SO ORDERED.
5
6

7 DATED this 9th day of December 2022.
8

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27



John C. Coughenour
UNITED STATES DISTRICT JUDGE

STIPULATED MOTION TO EXTEND DEADLINE TO
SEND CLASS NOTICE SO THAT THE PARTIES CAN
CONDUCT MEDIATION- 5
Case No. 2:20-cv-01473-JCC